

Michael Dean

From: Jeffrey Mandell <JMandell@staffordlaw.com>
Sent: Wednesday, December 9, 2020 11:24 AM
To: Michael Dean; Murphy, S. Michael
Cc: sidney@federalappeals.com; Howard Kleinhandler (howard@kleinhandler.com); Dan Eastman (daneastman@me.com)
Subject: RE: Motion to Seal/Restrict Identities Feehan v. Wisconsin Elections Commission et al 2:20-cv-1771

Mike –

The Governor opposes your motion.

First, Judge Pepper could not have been clearer yesterday that she is not entertaining evidentiary issues until and unless she has resolved the justiciability and dismissal arguments. Continuing to press forward with evidentiary issues at this point is prejudicial to Governor Evers, whose counsel are working around the clock to satisfy Plaintiffs' request for expedited resolution of this case.

Second, we object to the notion that Plaintiff can rely upon anonymous declarants or witnesses. Can you provide any authority showing that a federal court has allowed such an approach anywhere at any time in a civil matter?

Third, even if you proceed and the Court allows these revised filings, it remains our position, as I outlined on yesterday's call, that the Court cannot and should not consider any declarations, affidavits, or reports that Defendants have not had a full and fair opportunity to test through live cross-examination. We also reserve the right to object to any testimony being introduced via declaration or affidavit, depending on how a hearing, if ever scheduled, is structured.

Jeff

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From: Michael Dean <miked@michaelddeanllc.com>
Sent: Wednesday, December 9, 2020 10:21 AM
To: Murphy, S. Michael <murphysm@doj.state.wi.us>; Jeffrey Mandell <JMandell@staffordlaw.com>
Cc: sidney@federalappeals.com; Howard Kleinhandler (howard@kleinhandler.com) <howard@kleinhandler.com>; Dan Eastman (daneastman@me.com) <daneastman@me.com>
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Mike and Jeff

For housekeeping on the exhibits, we would like to submit unredacted copies of

(1) Exhs. 1 and 12 to Plaintiff's Amended Complaint as "Sealed" so that the identities of the affiants will be available to the court only and

(2) Exhibits 4, 13 and 19 as "Restricted" so that identifies of the affiants will be available only to counsel through a court-generated password.

<https://www.wied.uscourts.gov/e-filing-restricted-and-sealed-documents>

General L. R. 79(d)(4) requires that a motion to seal be accompanied by a "certification that the parties have conferred in a good faith attempt to avoid the motion or to limit the scope of the documents or materials subject to sealing under the motion," so I am communicating with you only as lead counsel for the current "parties" to the case.

The motion and supporting memo are attached, also a short declaration as an exhibit. There's some precedent in the 7th Cir. that the court can't leave it to parties to stipulate to seal, so I think I have to file the motion regardless.

Please let me whether you concur with the Motion so I can note that in the Motion and Certification.

Thanks much.

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